

News Release National Labor Relations Board

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Contact:

Office of Public Affairs 202-273-1991 publicinfo@nlrb.gov HYPERLINK "http://www.nlrb.gov" www.nlrb.gov

Briefs received, posted on cases involving successor employers and voluntary recognition agreements

The National Labor Relations Board has closed the period for receiving party and amici briefs in cases involving two significant areas of Board law and <u>has posted them on the agency website</u>. The Board will post the reply briefs shortly after they are due on November 15. Both cases question when a labor union's support among employees can be challenged, and will revisit decisions made by an earlier Board.

In *Lamons Gasket Co.*, the Board will decide whether to reconsider the 2007 decision in *Dana Corp*. (351 NLRB 434), in which the Board majority held that when an employer agrees to voluntarily recognize a union based on signed authorization cards, it must post a notice advising employees that they have a right, within 45 days, to file for an election to decertify the union or in support of a rival union. If the notice is not posted, the union and employer may not later claim that their contract bars a petition by a rival union or for decertification. The NLRB received 14 amicus briefs on this case, including from the Chamber of Commerce, the AFL-CIO, Senator Orrin Hatch, and Representatives John Kline and Tom Price.

The second set of cases, *UGL-UNICCO Service Company and Grocery Haulers, Inc.*, seeks review of the Board's 2002 decision in *MV Transportation* (337 NLRB 770), on the duties of a successor employer – one that takes over its predecessor's business and hires primarily from its workforce – toward an incumbent union. *MV Transportation* held that the employer's obligation to recognize and bargain can be challenged by the new employer, employees, or a rival union. The *MV Transportation* decision itself reversed the Board's 1999 decision in *St. Elizabeth Manor, Inc.* (329 NLRB 341) which held that an incumbent union is entitled to a reasonable period of time for bargaining without challenge to its status. Seven briefs were received on this case, from, among others, the National Right to Work Foundation, AFL-CIO, and the National Association of Manufacturers.

The National Labor Relations Board is an independent federal agency vested with the authority to safeguard employees' rights to organize and to determine whether to have a union as their collective bargaining representative. The Agency also acts to prevent and remedy unfair labor practices committed by private sector employers and unions.

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